



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case reference** : **CAM/26UK/LSC/2023/0005**

**Property** : **Sutton Court, 120 Sutton Road,  
Watford WD17 2QQ**

**Applicants** : **1. Susan Burford (Flat 1)  
2. Anthony Greenfield and Adele  
Greenfield (Flat 2)  
3. Dante Diaferia and Claire  
Frances Diaferia (Flat 3)  
4. Melanie Jane Bellamy (Flat 4)  
5. Kilma Mistry (Flat 5)  
6. Jane Yates (Flat 6.)  
7. Denice Golend (Flat 7)  
8. Michelle Jacqueline Robinson  
(Flat 8)  
9. Asmita and Jayshree Gandecha  
(Flat 9)  
10. Muhammad Jameel Ayoob  
Khadaroo (Flat 10)  
11. Andrea Brent (Flat 11)**

**Representative** : **Denice Golend**

**Respondent** : **Freehold Properties 23 Limited**

**Representative** : **Stevensons Solicitors**

**Type of application** : **For the determination of the  
reasonableness of and the liability  
to pay service charges**

**Tribunal members** : **Judge K. Seward  
Mr G.F. Smith MRICS FAAV**

**Date of hearing** : **31 May 2023**

**Date of decision** : **28 June 2023**

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## **DECISION AND REASONS**

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### **Description of hearing**

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was CVP Video. A face-to-face hearing was not held because it was not practicable, and no-one requested the same. The documents to which the Tribunal was referred are within a single bundle composed of 10 sections. The Tribunal has noted the full content.

### **Decisions of the Tribunal**

For the following reasons:

- (1) The Tribunal makes the determinations as set out under the various headings in this Decision.
- (2) The Tribunal orders that the Respondent shall pay the Applicants £300 within 28 days of this Decision, in respect of the reimbursement of the Tribunal fees paid by the Applicants.
- (3) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the landlord's costs of the Tribunal proceedings may be passed to the lessees through any service charge.
- (4) The Tribunal makes an order under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 to extinguish any liability of the tenants to pay an administration charge in respect of litigation costs incurred in these proceedings.

### **The application**

1. The Applicants seek determinations pursuant to section 27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to whether certain service charges are payable by them in respect of the service charge years 2020, 2021 and 2022. The Applicants also seek orders: (a) to limit any recovery of the Respondent's costs of the proceedings through the service charge, under section 20C of the 1985 Act; and (b) to reduce/extinguish their liability to pay an administration charge in respect of litigation costs, under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act").
2. The original application identified the total sum in dispute as £10,081.89. This was composed of £636 for 2020; £906 for 2021 and

£8,539.89 for 2022. The Applicants explained at the hearing that the figure for 2022 was estimated and subsequently revised once further information had been supplied in conjoined proceedings (see below). The disputed service charges for 2022 are now £6,534.90 making a total disputed figure of £8,076.90. Both parties' representatives confirmed these to be the correct amounts in dispute.

3. The relevant legal provisions are set out in the Appendix at the end of this decision.

### **The hearing**

4. The Applicants were represented at the hearing by Denice Golend, the leaseholder of No 7 Sutton Court. The Respondent is the freeholder of the property who was represented by Mr Stevenson, Solicitor. He called Mr Calver of Red Rock Estate & Property Management Limited to give evidence. Red Rock were the managing agents during the service charge years in dispute. Each service charge year ends on 31 December.
5. It was agreed at the outset that the Tribunal would look at each issue, point by point, so that both the Applicants and Respondent had their "turn" on each item as a discrete issue, before moving onto the next.
6. By direction of the Tribunal on 17 February 2023, the application was consolidated and heard with an earlier application in respect of the property made under section 94(3) of the Commonhold and Leasehold Reform Act 2002 and allocated case reference CAM/26UK/LSC/2023/0005. This is the subject of a separate decision.

### **The background**

7. The property which is the subject of this application is described as a building containing 11 residential flats plus a commercial unit.
8. No inspection of the property was requested, and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
9. Each Applicant holds a long lease of a flat within the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease and will be referred to below, where appropriate.

### **The issues**

10. At the start of the hearing the Tribunal identified the relevant issues for determination as follows:

- (i) The payability of the disputed items for 2020, 2021 and 2022;
  - (ii) Whether the items are within the landlord's obligations under the lease/ whether the cost of the items is payable by the leaseholder under the lease;
  - (iii) Whether the costs of the items are reasonable, in particular in relation to the nature of the service/works, the contract price and the supervision and management fee;
  - (iv) Whether an order under section 20C of the 1985 Act and/or paragraph 5A of Schedule 11 to the 2002 Act should be made; and
  - (v) Whether an order for reimbursement of the Tribunal application/hearing fees should be made.
11. Having heard evidence and submissions from the parties and considered all the documents provided, the Tribunal has made determinations on the various issues as follows.

### **The lease**

12. A copy of the lease for Flat 7 has been provided. It is a long lease demised for a term of 125 years. The Tribunal noted that the numbering is awry on various pages within the specimen lease with some paragraph numbers duplicated and places where the numbering is not sequential. All references herein are to the paragraph numbers as they appear within the lease.
13. The recitals define the demised premises as the relevant apartment. It includes rights in common with the landlord and others within the building and estate. The estate is Sutton Court.
14. The tenant's covenants are within the Fourth Schedule. There is general provision within paragraph 2(b) of the Fourth Schedule for the tenant to pay a fair and reasonable proportion of any outgoing, expenses or assessments in relation to the apartment or any part of the estate. Paragraph 10 contains the tenant's obligation to pay to the landlord within 7 days of demand, the 'service charge proportions', being such fair proportion as the landlord acting reasonably shall from time to time determine, referable to the residential lessees and in respect of the building and estate. The service charge proportions are such costs, charges and expenses which the landlord shall incur in (i) complying with its obligations in the Sixth Schedule which the landlord designates as residential service charge items; (ii) doing any works or things to those parts of the building utilised by the residential flat owners, for the

maintenance and improvement thereof; and (iii) any other costs which the landlord designates as residential service charge items.

15. The landlord covenants in the Sixth Schedule include a duty to maintain in a good state of repair and condition the common parts of the estate and building and to maintain facilities from time to time benefiting the building and estate (paragraphs 2-5) . There is discretion to provide such facilities for the benefit of the building and estate as the landlord (acting reasonably) may determine (paragraphs 6,7).
16. The landlord is responsible under paragraph 8 of the Sixth Schedule to effect insurance of the building for the insured risks. Under paragraph 9, insurance may extend to the estate as the landlord deems appropriate. By paragraph 10, the landlord is responsible for keeping proper books of account of all costs, charges and expenses in carrying out its obligations under the Sixth Schedule or otherwise managing or administering the building and estate.
17. The Seventh Schedule contains ‘additional services’ which the landlord may ‘at its absolute discretion in the interests of good estate management decide to provide’ and designate as a service charge item. They include, at paragraph 13, provision for the landlord to employ or engage persons in connection with the provision of ‘services’ or the landlord’s other obligations under the lease, as the landlord reasonably considers necessary or desirable. It includes (but is not limited to) fees, charges and disbursements of professionals or persons engaged by the landlord to provide accounting, auditing, management, administration, rent collection and preparation of accounts, among other services.

### **Preliminaries**

18. The Applicants produced a Scott Schedule for each of the three service charge years where charges are in dispute. The Respondent had added a handwritten figure against each entry with a clause number referable to comments contained in the Respondent’s statement of case. The Respondent confirmed at the hearing that the figure entered in the landlord’s column did not represent a concession. It merely identifies the figure charged for the year. The Scott Schedules are appended with the Tribunal’s comments added (Schedules 1 -3).
19. The items in the Scott Schedules collectively are numerous but they are capable of being dealt with fairly succinctly. Where the same issues are raised in respect of multiple items, the Tribunal has grouped the charges to avoid unnecessary repetition.
20. The hearing bundle contained agreement by Red Rock to reimburse a number of their costs, fees and charges passed on to leaseholders through the service charge. Mr Stevenson was emphatic that the

concessions had been made without the knowledge or authority of the Respondent and they should be disregarded. Mr Calver for Red Rock confirmed that the offers had been made in an attempt to resolve proceedings without the need for a hearing. It was Mr Calver who had alerted the Tribunal to the offers and in so doing appeared to have waived any privilege that might have been claimed. Nevertheless, in the circumstances, the Tribunal has completely disregarded the offers made in arriving at its determinations.

21. In the written submissions, the Applicants draw attention to the decision of the Lands Tribunal in *Veena SA v Cheong Veena SA v Cheong* [2003] LRX/45/2000, LT), to the effect that it does not suffice that the lease allows for the type of cost to be charged. The way a service is delivered must be reasonable; a landlord cannot charge for a service which is delivered in a way that is excessive to what is reasonably required. The word “reasonableness” should be read in its general sense and given a broad common-sense meaning.

#### **Bank Charges - £200 (2020), £330 (2021) & £300 (2022)**

22. The Respondent explained that Red Rock operates 200 or so bank accounts. The company is invoiced every month for transactional fees which are apportioned based upon the number of transactions. The fees are separate from those charged over the same period by Natwest, which are undisputed.
23. The Respondent submits that the bank charged for every transaction, but Mr Calver acknowledged that there is nothing within the bundle to show how the figures have been calculated for the property.
24. For the £200 in 2020 reliance is placed on a small, barely legible, extract of a banking tariff which lists ‘domestic payment fees’ and ‘international payment fees’. As evidence it is fairly meaningless in isolation. Indeed, Mr Calver accepted there is no apparent reason for international fees to have been incurred for this property.
25. Similarly, there is no information within the bundle to support the incurrence of £330 for 2021, nor is there any breakdown or explanation as to the higher amount in that year.
26. The banking fees of £300 for 2022 were charged in advance and there is nothing before the Tribunal to show that the fees were actually incurred. Mr Calver accepted that these fees are unsubstantiated.
27. **The Tribunal finds that the bank charge transaction fees were not payable and disallows the sum of £830.**

### **Loss Assessor Fees - £436 (2020), £576 (2021), £576 (2022)**

28. The landlord is responsible for insuring the building against loss or damage by insured risks. The costs, charges and expenses incurred by the landlord in complying with its obligations are recoverable through the service charge. This might reasonably extend to loss assessor fees.
29. The Respondent acknowledged that there should be an invoice dated 2019 for the year 2020 in which £436 was charged, but it has not been produced. The only information before the Tribunal is Mr Calver's oral evidence that loss adjusters would have been used "about 20" times per year. In the absence of any supporting information, the Tribunal cannot be satisfied that the 2020 fees were reasonably incurred or reasonable.
30. For 2021, there is an insurance brokers invoice addressed to Red Rock with effective date of 1 January 2021 for 'general claims assistance' in the sum of £19,900. However, it does not specify to which property or properties it relates. Mr Calver explained that fees are apportioned between the total number of properties but confirmed that no details are provided on how the calculation was made in this case.
31. The same amount of £576 was charged for loss assessor fees in 2022 although the invoice (in the same form as 2021) is for a total of £27,100. There is no explanation of the apportionment and why it differs so much from the year before. Again, the property is not identified.
32. The Tribunal does not doubt that the Respondent incurred charges on loss assessors, but it could not show that any of those charges related to this property.
33. **The Tribunal finds that the loss assessor fees were not recoverable and disallows the sum of £1,588.**

### **Managing Agent Fees - Out of Hours Call Out Service - £300 (2022)**

34. The Applicants say that £720 was charged in advance by invoice dated 28 July 2021 for the year 2022. As Red Rock ceased to manage with effect from 30 July 2022, the Applicants say that £300 in respect of the remaining 5 months of the year should be refunded.
35. In its written response, the Respondent entirely accepts that the managing agents' fees should be £420 but says that £300 obviously is not due back to the leaseholders because of what is stated in clause 6 of its statement of case. Clause 6 makes points concerning the cash book statement. When queried by the Tribunal, the Respondent's advocate accepted that clause 6 is not relevant to the question of reasonableness. Despite this acknowledgement and there being no explanation as to

why £300 should not be credited, no admission was made. There is no indication that Red Rock continued to provide this service beyond 30 July 2022 to warrant a fee over the remaining 5 months of 2022.

36. **In the circumstances, the Tribunal finds that £300 for the managing agents fees for the out of hours call out service was not payable and should be disallowed.**

**Professional Fees - £300 & s.20 Consultation Fee - £600 (2022)**

37. The Respondent has “entirely accepted” that £300 professional fees were invoiced on 10 August 2021 for the service charge year 2022 and the sum for 7 months should be £175 (inc VAT). Therefore, there is no reason for £125 not to be credited/refunded.
38. Mr Calver explained that the £300 professional fees related to abortive section 20 consultation works and addressing leaseholder enquiries. He said that he could find out dates for emails relating to these works but accepted that they were not already in the bundle nor indeed were any details by way of justification.
39. In relation to the £600 charge, the Respondent submits that three consultation notices were issued to each tenant along with demands for monies. A letter from Red Rock to leaseholders dated 21 January 2022 is produced. It states that the section 20 consultation process had been completed for the appointment of a contractor to undertake fire protection works. The letter advised that a section 20 consultation fee of £500 plus VAT would be included with the charge for the final contractor price. Leaseholders were thus put on notice of the charge amounting to £600. The Tribunal finds no evidence that this figure was a duplication of fees already charged in 2021 as the Applicants allege.
40. It is plain that a section 20 consultation process was undertaken by Red Rock. There is provision within the lease for such charges to be recovered by the landlord. The figure of £500 plus VAT is not unreasonable for those works.
41. The letter of 21 January 2022 made no mention of other consultation fees. A leaseholder receiving the letter would reasonably believe that the fees for Red Rock would be a total of £500 plus VAT and no more. The sum of £300 was an additional charge. Pro rata, the amount could not exceed £175 but even then there is no reasoned explanation.
42. **The Tribunal finds that the £300 for professional fees were not payable and should be disallowed. However, the Tribunal determines that the £600 section 20 consultation fee for 2022 was payable and reasonable.**



### **Collating fees for year end accounts - £120 & Exit fee - £360 (2022)**

43. The Applicants argue that as Red Rock ceased to act on 30 July 2022, there was no service required or undertaken in collating the file for year end accounts for 2022. The £120 fee was an advance charge. The Tribunal considers it a valid point by the Applicants to query how it could be known in advance what costs might be incurred in collating information. As no further information is given, it is difficult to gauge whether these costs were reasonably incurred or indeed, whether there is duplication with the exit fee.
44. The exit fee of £360 equates to £300 plus VAT to reconcile the account, notify all parties of the cessation of management and reporting to the freeholder. The Applicants maintain that the 2022 accounts were never produced, and wrong information was supplied. Nevertheless, there clearly was a handover of information as set out in the email from Red Rock of 8 September 2022 and further documents subsequently supplied, albeit after the involvement of the Tribunal.
45. The Tribunal notes the frustration of the Applicants in extracting the information sought. However, that does not negate entitlement to any fee if reasonably incurred and reasonable. There is provision within the lease for the landlord to recover charges incurred in complying with its obligations under the lease which include keeping proper books of account and the recovery of fees of persons engaged in the management of the property, including preparation of accounts.
46. The Tribunal considers that £300 plus VAT appears reasonable for the works involved in the hand over, to include the collation of documents.
47. **The Tribunal determines that the total combined sum of £360 was payable and reasonable for collating year end accounts and the exit fee. The sum of £120 is disallowed.**

### **Electricity Procurement Fees - £180 & £30 (2022)**

48. These fees are said to have involved Red Rock securing the most cost-effective contract for electricity to the common parts for which the Respondent is responsible under the lease. Mr Calver acknowledged that there is no paperwork or other evidence provided to support these costs having been incurred.
49. **The Tribunal finds that the sum of £210 for electricity procurement fees were not payable and should be disallowed.**

### **Postage Costs totalling £302.40 (2022)**

50. The Respondent invoiced £78 on 9 September 2021 for advance postage costs for 2022. It proceeded to invoice for further sums of £44.08, £79.06, £48.10, £26.58 and £26.58 for postage costs up to August 2022. The Respondent submits that not only were three section 20 consultation notices issued to leaseholders over this period, but there were also numerous demands issued and accounts sent out.
51. Ms Golend confirmed she had received correspondence by post and email. Inevitably, there will be communications prudently sent by post and others that can only be sent by email alone with the leaseholders' consent. Not all communications can be sent by email. For instance, there is reference to keys being posted. Furthermore, it is unrealistic to expect that every postage stamp is detailed in order to be recoverable.
52. The Applicants flag up that an invoice of 26 April 2022 also shows items for Canterbury Court, another property managed by Red Rock, where the same sum of £48.10 was charged for postage over identical period. That does not mean that the charges were not incurred.
53. Some of the invoice dates correlate with times when section 20 consultation was being undertaken. Except for the advance sum of £78 (which has not been accounted for) the Tribunal considers it probable that the other charges for varying amounts were actual costs incurred. Postage costs are a form of disbursement recoverable under the lease when reasonably incurred by the managing agents in relation to the provision of services or fulfilment of the landlord's obligations.
54. **The Tribunal determines that a total of £224.40 was payable and reasonable for postage costs.**

### **Emergency Light Testing - £1,296.00 (2022)**

55. The £1,296 invoiced by Red Rock on 9 September 2021 was an advance charge for the managing agents' fees in undertaking emergency lighting testing in the communal areas of the property. The Respondent accepts that only £756 was due for the 7 months up to Red Rock's departure, although no offer of refund/credit is made.
56. The Applicants say that no service was provided, and the sums are unreasonable.
57. The Respondent relies upon the generic provisions within the lease under paragraphs 6 and 7 of the Sixth Schedule to provide such facilities to the building and estate as the landlord (acting reasonably) may from time to time determine. Clearly, emergency lighting is necessary in the interests of health and safety. Recovery of such charges

is captured by the tenant's covenants to bear the costs of works or things done in the maintenance of those parts of the building or estate utilised by the residential flat owners (Fourth Schedule, paragraph 10)

58. Records are produced of testing being undertaken up to 29 March 2022 but not beyond. That being so, the Tribunal considers that agent's fees for the emergency lighting testing should only be recovered for the first 3 months of 2022.
59. **The Tribunal determines that a total of £324 was payable and reasonable for emergency light testing.**

**Management Fees – totalling £2,062.50 (2022)**

60. The landlord has discretion under the Seventh Schedule of the lease to appoint managing agents and to recover the costs through the service charge.
61. The Applicants have not disputed the management fees for January to March 2022 (inc.). The dispute concerns the total sum of £2,062.50 charged from 1 April 2022 once account is taken of a credit of £653.76 issued on 9 November 2022.
62. The Applicants submit that no management services were provided after 31 March 2022 and describe what they consider to be a catalogue of errors in relation to reconciliation of the accounts.
63. Although a dispute between the parties has emerged, it is evident that services have been provided in preparing for the handover, day-to-day matters including dealings with contractors and leaseholders. Red Rock says that it responded to 126 emails between 1 April 2022 and end August 2022 and points to numerous difficulties with service charge arrears when leaseholders withheld payment.
64. The Tribunal finds the first figure of £970.09 for the period 1 April 2022 to 30 June 2022 to be payable and reasonable.
65. A further £970.09 was charged for the following 3-month period from 1 July 2022 to 30 September 2022. As Red Rock ceased management on 30 July 2022, the sum of £653.76 was credited for this 2-month period when they ceased to manage. The amount of the credit note should be deducted from the 3-month charge to arrive at the correct figure to 30 July 2022. This amounts to £316.33 which the Tribunal finds to be payable and reasonable.
66. There is another sum of £776.08 charged on 27 April 2022 for management fees. No dates are given on the invoice and Mr Calver was

unable to explain why the sum was charged and how it related to the other invoices. It follows that the Tribunal is not satisfied that the sum of £776.08 is payable and it should be disallowed.

67. **In summary, the Tribunal determines that of the total in dispute, the sum of £1,286.42 was payable and reasonable. The sum of £776.08 should be disallowed.**

**Land Registry fees - £43.20 (2022)**

68. The Respondent says that it was necessary to obtain up-to-date names and addresses for certain leaseholders by securing title information from H.M. Land Registry. The statement of case says that this was for the purposes of giving notification of accounts and major works consultation notices, although Mr Calver could not say if this was so.
69. The Respondent's advocate said that a fee of £3.00 is charged to locate a title. There are 11 flats within the building making it is difficult to reconcile the sum charged with the explanation given, particularly as £43.30 is not divisible by 3. No records or other information is supplied.
70. **In the absence of sufficient information, the Tribunal finds that the Land Registry fees of £43.20 were not payable or reasonable.**

**Signage - £64.80 (2022)**

71. Mr Calver explained that the £64.80 was the cost of fire action notices required to be installed within the common parts of the building. The amount represents the cost of the signs only. Red Rock bought the signs for £54 plus VAT, although the receipt is not available.
72. The Applicants' representative stated that there was fire signage in situ prior to March 2022 but she did not challenge Mr Calver's explanation of where new signs were added.
73. **The Tribunal finds the sum of £64.80 for signage to be payable and reasonable.**

**Applications under s.20C, paragraph 5A and refund of fees**

74. The Applicants applied for a refund of the fees paid in respect of the application and hearing under rule 13(2) of the Tribunal Procedure

Rules 2013<sup>1</sup>. An application fee of £100 and hearing fee of £200 were paid. The Applicants have not enjoyed total success, but of the total disputed sum of £8,076.90 only £2,859.62 has found to be justified on the evidence presented. Having heard the submissions from the parties and taking into account the determinations above, the Tribunal orders the Respondent to refund the fees paid by the Applicants.

75. In the application form, the Applicants applied for an order under section 20C of the 1985 Act. Although the Respondent indicated that no costs would be passed through the service charge, the Respondent does not resist the grant of an order. Similarly, the Respondent does not resist an order under paragraph 5A of Schedule 11 to the 2002 Act, albeit unclear if any administration charges might be pursued.
76. For the avoidance of doubt, the Tribunal nonetheless determines that it is just and equitable in the circumstances that orders be made under section 20C to prevent the recovery of the cost of the proceedings through the service charge, and to extinguish any liability to pay any administration charge in respect of litigation costs, under paragraph 5A of the 2002 Act.

**Name: Judge K. Saward Date: 28 June 2023**

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

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<sup>1</sup> The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 SI 2013 No 1169

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e., give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

**SCHEDULE 1****DISPUTED SERVICE CHARGES S/C YEAR ENDED 31 December 2020**

<b>ITEM</b>	<b>COST</b>	<b>TENANT'S COMMENTS</b>	<b>LANDLORD'S COMMENTS</b>	<b>LEAVE BLANK (FOR THE TRIBUNAL)</b>
Red Rock Bank Charge transaction fee Sutton Court for 2020	200.00	The figure for bank charges in the 2020 accounts was £217. In 2022 Natwest charged £17 of bank charges and we assume the figure to have been the same in 2020. The difference of £200 is less than the amount of £300 invoiced by Red Rock for 2022 described as "Bank Charge transaction fee Sutton Court" but is presumably the same thing. The charge of £200 is made by Red Rock in addition to the Natwest charges. No service was carried out or necessary. The amount is disputed in full. We would submit that the charges made by Red Rock are both not reasonable and to the extent that a service may have been carried out, it has not been carried out to a reasonable standard	200 Clause 23	<b>Disallowed</b>
Red Rock Loss Assessor Fees Sutton Court for 2020	436.00	The insurance premium covering the period 1 January 2020 to 31 December 2020 was £1,966. The insurance charge in the 2020 accounts was £2,402. The difference of £436 is	436 Clause 24	<b>Disallowed</b>

		<p>£140 less than the 2022 charge by Red Rock described as both "Loss Assessor Fees Sutton Court" and "Insurance premiums loss".</p> <p>However it is presumably still just a charge by Red Rock. There have been no insurance claims in the last 5 years and the insurance is arranged directly by the freeholder. No service was carried out or necessary. The charge is disputed in full. The charges made by Red Rock are both not reasonable and to the extent that a service may have been carried out, it has not been carried out to a reasonable standard</p>		
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**SCHEDULE 2**

**DISPUTED SERVICE CHARGES S/C YEAR ENDED 31 December 2021**

<b>ITEM</b>	<b>COST</b>	<b>TENANT'S COMMENTS</b>	<b>LANDLORD'S COMMENTS</b>	<b>LEAVE BLANK (FOR THE TRIBUNAL)</b>
Red Rock Bank Charge transaction fee Sutton Court for 2021	330.00	The figure for bank charges in the 2021 accounts was £347. In 2022 Natwest charged £17 of bank charges and we assume the figure to have been the same in 2021. The difference of £330 is a similar amount to the £300 invoiced by Red Rock for 2022 described as "Bank	330 Clause 21	<b>Disallowed</b>



		Charge transaction fee Sutton Court". The charge of £330 is made by Red Rock in addition to the Natwest charges. The amount is disputed in full. We would submit that no service was required and that none was provided we also submit that the charges made by Red Rock are both not reasonable and to the extent that a service may have been carried out, it has not been carried out to a reasonable standard		
Red Rock Loss Assessor Fees Sutton Court for 2021	576.00	The insurance premium covering the period 1 January 2021 to 31 December 2021 was £2,140. The insurance charge in the 2021 accounts was £2,716. The difference of £576 is the same as the amount invoiced by Red Rock for 2022 described on the invoice as "Loss Assessor Fees Sutton Court" and in the budget as "Insurance premiums loss £576". There have been no insurance claims in the last 5 years and the insurance is arranged directly by the freeholder. No service was carried out or necessary. The charge is disputed in full. The charges made by Red Rock are both not reasonable and to the extent that a service may have been carried out, it	576 Clause 22	<b>Disallowed</b>

		has not been carried out to a reasonable standard		
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**SCHEDULE 3**

**DISPUTED SERVICE CHARGES S/C YEAR ENDED 31 December 2022**

<b>ITEM</b>	<b>COST</b>	<b>TENANT'S COMMENTS</b>	<b>LANDLORD'S COMMENTS</b>	<b>LEAVE BLANK (FOR THE TRIBUNAL)</b>
Managing Agent Fees Out of Hours Call Out Service 2022	300.00	On 28 July <b>2021</b> Red Rock invoiced £720 in advance for the out of hours service that they would be providing during 2022. As they ceased to manage the property after 30 July 2022 5/12 of the charge of £720 that is £300 should be refunded	420 Clause 8	<b>Disallowed</b>
Red Rock Professional Fees Sutton Court 2022	300.00	On 10 August <b>2021</b> Red Rock invoiced £300 in advance for "Professional Fees Sutton Court" relating to 2022. This amount was paid on 15 September <b>2021</b> . It is not known what service this relates to nor how Red Rock knew in advance that they would incur any costs. The amount is disputed in full. We would submit that no service was required and that none was provided we also submit that the charges made by Red Rock are both not reasonable and to the extent that a service may have been carried	175 Clause 9	<b>Disallowed</b>

		out, it has not been carried out to a reasonable standard		
Red Rock Bank Charge transaction fee Sutton Court for 2022	300.00	On 11 August 2021 Red Rock invoiced £300 in advance for "Bank Charge transaction fee Sutton Court" relating to 2022. Natwest charged £17 of bank charges. The charge of £300 is made by Red Rock in addition to these charges. The amount is disputed in full. We would submit that no service was required and that none was provided we also submit that the charges made by Red Rock are both not reasonable and to the extent that a service may have been carried out, it has not been carried out to a reasonable standard	175 Clause 10	<b>Disallowed</b>
Red Rock Collating File for YE Accts Sutton Court 2022	120.00	On 9 September <b>2021</b> Red Rock invoiced £120 in advance for "Collating File for YE Accts Sutton Court" relating to 2022. As they ceased to act this is not something that they have had to do and the charge is disputed in full. We would submit that no service was required and that none was provided we also submit that the charges made by Red Rock are both not reasonable and to the extent that a service may have been carried out, it has not been	120 Clause 11	<b>Disallowed</b>

		carried out to a reasonable standard		
Red Rock Electricity Procurement Fee Sutton Court for 2022	180.00	<p>On 9 September <b>2021</b> Red Rock invoiced £180 in advance for "Electricity Procurement Fee Sutton Court" relating to 2022. On 4 November <b>2021</b> they invoiced a further £30 in advance for "Managing Agent Fees Electricity Procurement Fee Ad Sutton Court". During 2021 the electricity was supplied by Pozitive Energy and they continued to supply the electricity during 2022. The charges from Pozitive Energy for 2022 were £380. Pozitive Energy charged £380 and on top of this Red Rock charged £210. Interestingly the 2022 budget prepared by Red Rock and dated 23 November 2021 showed "Electricity consumption £650" which is misleading; this is not electricity consumption. The amount is disputed in full. We would submit that no service was carried out or necessary. The charges made by Red Rock are both not reasonable and to the extent that a service may have been carried out, it has not been carried out to a reasonable standard</p>	180 Clause 12	<b>Disallowed</b>

Red Rock Managing Agent Fees Electricity Procurement Fee Ad Sutton Court	30.00	As above	30 Clause 12	<b>Disallowed</b>
Red Rock Loss Assessor Fees Sutton Court for 2022	576.00	On 9 September <b>2021</b> Red Rock invoiced £576 in advance for "Loss Assessor Fees Sutton Court" relating to 2022. Interestingly the 2022 budget prepared by Red Rock and dated 23 November 2021 showed "Insurance premiums loss £576". There have been no insurance claims in the last 5 years and the insurance is arranged directly by the freeholder. How would Red Rock know in advance that costs were going to be incurred and what for? No service was carried out or necessary. The charge is disputed in full. The charges made by Red Rock are both not reasonable and to the extent that a service may have been carried out, it has not been carried out to a reasonable standard	576 Clause 13	<b>Disallowed</b>
Red Rock Postage Sutton Court 2022	78.00	On 9 September <b>2021</b> Red Rock invoiced £78 in advance for "Postage Sutton Court" relating to 2022. The 2022 budget prepared by Red Rock and dated 23 November 2021 showed "Postage £78". So what was invoiced in advance was the budgeted figure for	78 Clause 14	<b>The total disputed postage charges are £302.40.</b> <b>Allow in part</b> <b>£224.40 is allowed in total</b>

	<p>the whole of 2022. Subsequently on 22 February 2022 a further £44.08 was invoiced as "Postage Sutton Court". On 31 March 2022 a further £79.06 was invoiced as "Misc Postage - 11/02/22 Sutton Court". On 26 April 2022 a further £48.10 was invoiced as "Postage Sutton Court". On 7 September 2022 a further £26.58 was invoiced as "Misc Postage - 05/08/22 Sutton Court" and again on 7 September 2022 a further £26.58 was invoiced as "Misc Postage - 17/08/22 Sutton Court". Thus a total of £302.40 was invoiced for postage. The invoice date 26 April 2022 showed items relating to Sutton Court and on the same invoice items relating to Canterbury Court which we assume to be another property managed by Red Rock. We are not suggesting that costs relating to Canterbury Court have been charged to Sutton Court. However the postage charge to Canterbury Court was £48.10; precisely the same figure charged to Sutton Court. Given that much of the communication is by email and that supplier</p>		
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		payments are made by bank transfer it is not believable that £302.40 was spent on postage. No details of the postage have been provided and no postage out log provided. The charge is disputed in full. We would submit that no service was required and that none was provided we also submit the charges made by Red Rock are both not reasonable and to the extent that a service may have been carried out, it has not been carried out to a reasonable standard		
Red Rock Postage Sutton Court	44.08	As above	440.08 Clause 14	<b>See above</b>
Red Rock Misc Postage - 11/02/22 Sutton Court	79.06	As Above	79.06 Clause 14	<b>See above</b>
Red Rock Postage Sutton Court 1/2/22 to 26/4/22	48.10	As above	48.10 Clause 14	<b>See above</b>
Red Rock Misc Postage - 05/08/22 Sutton Court	26.58	As above	26.58 Clause 14	<b>See above</b>
Red Rock Misc Postage - 17/08/22 Sutton Court	26.58	As above	26.58 Clause 14	<b>See above</b>
Red Rock Managing Agent Fees Emergency Light Testing Sutton Court 2022	1296.00	On 9 September <b>2021</b> Red Rock invoiced £1,296 in advance for "Managing Agent Fees Emergency Light Testing Sutton Court" relating to 2022. On the RTM takeover of management on 30 July	756 Clause 15	<b>Allow in part</b> <b>£324 is allowed</b>

		<p>2022, we assumed that Red Rock would have continued the Emergency Lights and the AOV safety checks throughout their management during 2022. However, on looking through the Health &amp; Safety logbook found on site, we saw that the final entry was on 26 January 2022, and that nobody had attended site since. (Appendix 2)". No service was carried out and the charge is disputed in full. The charges made by Red Rock are both not reasonable and to the extent that a service may have been carried out, it has not been carried out to a reasonable standard</p>		
<p>Red Rock Managing Agent Fees Management Fees Sutton Court 1 April 2022 to 30 June 2022</p>	<p>970.09</p>	<p>On 11 February 2022 Red Rock invoiced £970.09 in advance for "Managing Agent Fees Management Fees Sutton Court" for the period 1 April 2022 to 30 June 2022. On 22 March 2022 Red Rock invoiced a further £970.09 in advance for "Management Fee Sutton Court" for the period 1 July 2022 to 30 September 2022. On 27 April 2022 Red Rock invoiced a further £776.08 in advance for "Management Fee Sutton Court". The</p>	<p>970.09 Clause 16</p>	<p><b>The total disputed sum for managing agents' fees is £2,062.50, taking account of the £653.76 already credited.</b></p> <p><b>Allow in part</b></p> <p><b>The total sum allowed is £1,286.42</b></p>



		invoice does not show the period covered but they had already invoiced up to 30 September 2022 and already knew that they were not acting after 30 July 2022. In Schedule 4 we set out why we believed that Red Rock provided no management services after 31 March 2022. In addition it can now be seen that there have been a catalogue of errors and as set out in Schedule 5 there have not been regular reconciliations of client funds to the bank statements. We therefore dispute all of these management charges. We would submit that no service was provided. We also submit that the charges made by Red Rock are both not reasonable and to the extent that a service may have been carried out, it has not been carried out to a reasonable standard.		
Red Rock Managing Agent Fees Management Fees Sutton Court 1 July 2022 to 30 September 2022	970.09	As above	970.09 Clause 16	<b>Credit of £653.76 to be deducted - See above &amp; below</b>
Red Rock Managing Agent Fees Management Fees Sutton Court	776.08	As above	776.08 Clause 16	<b>Disallowed</b>
Red Rock Credit Note Managing	(653.76)	On 9 November 2022 Red Rock issued a credit	(653.76) Clause 16	<b>Credit to be deducted</b>

Agent Fees Management Fees Sutton Court		note for £653.76 for "Credit Note Managing Agent Fees Management Fees Sutton Court". If it is agreed that all of the disputed management fees are not payable then this credit note is no longer required.		<b>from £970.09</b>
Red Rock Section 20 Consultation Fee Sutton Court	600.00	On 22 March 2022 Red Rock invoiced £600 for "Section 20 Consultation Fee Sutton Court". In section 4.20 we set out why we believe that Red Rock had already charged this in 2021. This charge is therefore disputed in full. It should also be noted that no S20 works were ever carried and that therefore no supervision was ever necessary.	600 Clause 17	<b>Allowed</b>
Red Rock Land Registry Sutton Court	43.20	On 26 April 2022 Red Rock invoiced £43.20 for "Land Registry Sutton Court". There is no reason why the service charge accounts would incur a Land Registry charge although this has appeared as a category in the service charge accounts every year. It would seem that no service was carried out and that in any case such a charge would not be a service charge expense. This charge is therefore disputed in full. The charges made by Red Rock are both not reasonable and to the extent that a service may have been carried	43.20 Clause 18	<b>Disallowed</b>

		out, it has not been carried out to a reasonable standard		
Red Rock Signage Sutton Court	64.80	On 26 April 2022 Red Rock invoiced £64.80 for "Signage Sutton Court". Red Rock stopped carrying out management functions in March. They did everything to stop spending money. They even stopped the cleaners and the grounds maintenance. They knew that they were not going to act going forward. It makes little sense that there was a charge for signage at the end of April. This charge is therefore disputed in full. The charges made by Red Rock are both not reasonable and to the extent that a service may have been carried out, it has not been carried out to a reasonable standard	64.60 Clause 19	<b>Allowed</b>
Red Rock Exit fee Sutton Court	360.00	On 9 November 2022 Red Rock invoiced £360 for "Exit fee Sutton Court". Given Red Rock's conduct in not providing information and not accounting for funds as required by S93 and S94 Commonhold and Leasehold Reform Act 2002 it seems quite inappropriate for them to charge for <b>not</b> doing what they are required to do by law. This charge should be reimbursed.	360 Clause 20	<b>Allowed</b>

		<p>We have now seen that the information that was provided by Red Rock after our original claim had been made to the Tribunal was in fact incorrect. It is only as a result of the Tribunal directing that information be provided that information has actually been provided. This charge is therefore disputed in full. The charges made by Red Rock are both not reasonable and to the extent that a service may have been carried out, it has not been carried out to a reasonable standard</p>		
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## **Appendix of relevant legislation**

### **Landlord and Tenant Act 1985 (as amended)**

#### **Section 18**

- (1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
  - (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
  - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose -
  - (a) "costs" includes overheads, and
  - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

#### **Section 19**

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
  - (a) only to the extent that they are reasonably incurred, and
  - (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;and the amount payable shall be limited accordingly.
- (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

#### **Section 27A**

- (1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to -
  - (a) the person by whom it is payable,
  - (b) the person to whom it is payable,
  - (c) the amount which is payable,

- (d) the date at or by which it is payable, and
  - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
- (a) the person by whom it would be payable,
  - (b) the person to whom it would be payable,
  - (c) the amount which would be payable,
  - (d) the date at or by which it would be payable, and
  - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which -
- (a) has been agreed or admitted by the tenant,
  - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
  - (c) has been the subject of determination by a court, or
  - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

**Section 20C**

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.
- (2) The application shall be made—
- (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
  - (aa) in the case of proceedings before a residential property tribunal, to that tribunal;
  - (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;

- (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
  - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

**Commonhold and Leasehold Reform Act 2002**

**Schedule 11, paragraph 5A**

- (1) A tenant of a dwelling in England may apply to the relevant court or tribunal for an order reducing or extinguishing the tenant's liability to pay a particular administration charge in respect of litigation costs.
- (2) The relevant court or tribunal may make whatever order on the application it considers to be just and equitable.
- (3) In this paragraph—
  - (a) “litigation costs” means costs incurred, or to be incurred, by the landlord in connection with proceedings of a kind mentioned in the table, and
  - (b) “the relevant court or tribunal” means the court or tribunal mentioned in the table in relation to those proceedings.

Proceedings to which costs relate	“The relevant court or tribunal”
Court proceedings	The court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, the county court
First-tier Tribunal proceedings	The First-tier Tribunal
Upper Tribunal proceedings	The Upper Tribunal
Arbitration proceedings	The arbitral tribunal or, if the application is made after the proceedings are concluded, the county court

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